

## REMARKS

Reconsideration and allowance in view of the foregoing amendments and following remarks are respectfully requested.

Claims 1-4 and 7-32 are canceled by this Amendment.

### *I. Allowable Subject Matter*

It is acknowledged that claims 5-6 recite allowable subject matter, notwithstanding their allowance on currently rejected base claims. Claims 5-6 are amended into independent format, incorporating the subject matter of claim 1 upon which they were previously dependent. Claims 5 and 6 are therefore believed to be in condition for allowance at this time.

### *II. Rejection of Claims 1-4 and 7-32 Under 35 U.S.C. § 103*

Claims 1-4 and 7-32 were rejected under 35 U.S.C. § 103 as being rendered obvious by the conventional art disclosed in the specification in view of *Fukushima et al.* (U.S. Patent No. 5,111,444). This rejection is rendered moot by the cancellation of claims 1-4 and 7-32.

### III. New Claims 33-44

New claims 33-44 are believed to recite allowable subject matter. The features recited by new claims 33-44 were discussed during the interview with Examiner Neyzari conducted on November 17, 1999. Specifically, new claim 33 recites an optical disc in which a ratio is varied between the size of each main area and a size of a corresponding contiguous spare area. Examiner Neyzari agreed that this limitation would distinguish over the prior art discussed in the Background Section of the application which discloses a fixed ratio. In addition, Examiner Neyzari agreed that this feature would distinguish over the *Fukushima* reference because that reference does not vary the ratio between each main area and corresponding contiguous spare areas with respect to size.

Rather, the *Fukushima* reference maintains primary spare areas of a fixed size adjacent to the main data storing areas adding secondary spare areas at different locations to handle increases in error data. Similar features are recited by claim 39.

Second, we discussed new claims directed to varying the ratio based on the radial position of the main area, or varying the ratio based on the thickness of the recording medium at the position of the main area. See claims 35-38 and 41-44. Because *Fukushima* does not disclose variations in spare areas or main areas based on radial position or thickness, Examiner Neyzari agreed that

the claims directed toward these features would likely distinguish over that reference.

For at least the reasons noted above, Applicant submits that new claims 33-44 distinguish over the cited prior art references of Record.

#### *IV. Conclusion*

All objections and rejections being overcome, it is respectfully submitted that the present application is in condition for allowance and a Notice to that effect is earnestly solicited.

Applicant respectfully petitions under the provisions of 37 C.F.R. § 1.136(a) and § 1.17 for a **two**-month extension of time in which to respond to the Examiner's Office Action. The Extension of Time Fee in the amount of **\$380.00** is attached hereto.

App'l. No. 09/055,240

Group: 2752

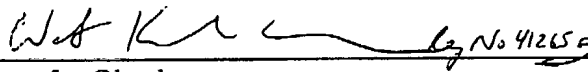
Page 9

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By:

  
Terry L. Clark  
Registration No.: 32,644

TLC:WKR:mmc

P.O. Box 747  
Falls Church, Virginia 22040-0747  
Telephone: (703)205-8000